



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2020-0621; FRL-10017-86]

### **Draft Compliance Guide for Imported Articles Containing Surface Coatings Subject to the Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances Significant New Use Rule; Notice of Availability and Request for Comment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing the availability of and soliciting public comment on the draft compliance guide for the significant new uses EPA identified under the Toxic Substances Control Act (TSCA) for the import of articles with certain long-chain perfluoroalkyl carboxylate (LCPFAC) chemicals as part of the surface coating, as established by EPA's final rule "Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule." Specifically, the guide provides additional clarity on what is meant by a "surface coating," identifies which entities are regulated, describes the activities that are required or prohibited, and summarizes the notification requirements of the final significant new use rule (SNUR).

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2013-0225, using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to

provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Tyler Lloyd, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-4016; email address: [lloyd.tyler@epa.gov](mailto:lloyd.tyler@epa.gov).

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Executive Summary**

#### *A. What action is the Agency taking?*

EPA is announcing the availability of and soliciting public comment on the draft compliance guide for the significant new uses EPA identified under section 5(a) the Toxic Substances Control Act (TSCA), 15 U.S.C. 2604(a), for the import of articles with certain long-chain perfluoroalkyl carboxylate (LCPFAC) chemicals as part of the surface coating, as established by EPA's final rule "Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule" (85 FR 45109, July 27, 2020) (FRL-10010-44) (Ref. 1). Specifically, the draft compliance guide provides additional clarity on what is meant by a "surface coating," identifies which entities are regulated, describes the activities that are required or prohibited, and summarizes the notification requirements of the final significant new use rule (SNUR).

During the public comment period for the 2020 supplemental proposal (Ref. 2), several commenters asked EPA to define "surface coating" and to include a definition in the regulatory text. In the final rule (Ref. 1), EPA did not finalize a regulatory definition of "surface coating." Rather, EPA stated that the Agency would issue guidance for imported articles that may contain

LCPFAC chemical substances as part of a surface coating. This draft compliance guide was prepared consistent with Executive Order 13891 (84 FR 55235, October 9, 2019) and EPA's procedural rule for guidance, "EPA Guidance; Administrative Procedures for Issuance and Public Petitions" (85 FR 66230, October 19, 2020).

*B. Do guidance documents contain binding requirements?*

While the requirements in the statutes and Agency regulations are binding on EPA and the regulated entities, the contents of this compliance guide do not have the force and effect of law and are not meant to bind the public in any way. This compliance guide is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. The statements in the compliance guide are intended solely as guidance to aid in complying with the EPA regulations in 40 CFR part 721.

*C. Does this action apply to me?*

You may be potentially affected by this action if you import articles containing certain LCPFAC chemical substances. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers (including importers) of one or more of subject chemical substances (NAICS codes 325 and 324110) (*e.g.*, chemical manufacturing and petroleum refineries).
- Fiber, yarn, and thread mills (NAICS code 31311).
- Carpet and rug mills (NAICS code 314110).
- Home furnishing merchant wholesalers (NAICS code 423220).
- Carpet and upholstery cleaning services (NAICS code 561740).
- Manufacturers of computer and other electronic products, appliances, and components (NAICS codes 324 and 335).
- Manufacturers of surgical and medical instruments (NAICS 339112).

- Merchant wholesalers (NAICS codes 423 and 424).
- Stores and retailers (NAICS codes 442, 442, 444, 448, 451, and 454).
- Providers of other support services (NAICS code 561990).

Other types of entities not listed in this unit could also be affected. The NAICS codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical information contact listed under **FOR FURTHER**

## **INFORMATION CONTACT.**

*D. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

## **II. Request for Public Comment**

EPA welcomes comments on any aspect of the draft compliance guide. EPA specifically solicits comments to enable it to enhance the clarity of the compliance guide.

## **III. References**

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket,

even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule. Final Rule. *Federal Register*. 85 FR 45109, July 27, 2020 (FRL-10010-44).

2. EPA. Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule. Supplemental Proposal. *Federal Register*. 85 FR 12479, March 3, 2020 (FRL-10003-21).

#### **IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review, and Executive Order 13891: Promoting the Rule of Law Through Improved Agency Guidance Documents*

This draft compliance guide was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993), 13563 (76 FR 3821, January 21, 2011), and 13891 (84 FR 55235, October 9, 2019). Any changes made in response to OMB recommendations have been documented in the docket for this action as required by section 6(a)(3)(E) of Executive Order 12866.

#### *B. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden under the PRA, 44 U.S.C. 3501 *et seq.* Burden is defined in 5 CFR 1320.3(b). The information collection activities associated with existing chemical SNURs are already approved under OMB control number 2070-0038 (EPA ICR No. 1188); and the information collection activities associated with export notifications are already approved under OMB control number 2070-0030 (EPA ICR No. 0795).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR, part 9, and included on the related collection instrument, or form, as applicable.

**Authority:** 15 U.S.C. 2601 *et seq.*

Dated: December 10, 2020.

**Alexandra Dapolito Dunn,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

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